

SHL Terms of Business

These terms apply to all sales of SHL products and services, unless we agree otherwise in writing.

Please read them carefully before placing your order.



1 Definitions and Interpretation

In these terms, the following words have the following meanings:

"Contract" means any contract for us to supply you with our Products or Services, incorporating these terms;

"Products" means any product we have agreed to supply to you;

"Services" means any service we have agreed to supply to you;

"SHL", "we", "us", "our" means your local SHL company, supplying our Products or Services to you;

"You", "your" means the person or organisation purchasing our Products and/or Services.

A reference to a gender includes every gender, and a reference to the singular includes the plural and vice versa as the context requires. Headings are for ease of reference only and the words "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.

2 Basis of Contract

2.1 Entire Agreement

The Contract sets out the entire agreement between the parties relating to its subject matter and unless otherwise agreed in writing by the parties (whose agreement must refer to this clause), shall override any prior correspondence or representations and all other terms and conditions. The parties acknowledge that this Contract has not been entered into wholly or partly in reliance on, nor has either party been given any warranty, statement, promise or representation by the other or on their behalf other than as expressly set out in this Contract. Nothing in this Contract will exclude liability for any misrepresentation that was made fraudulently.

2.2 Changes

From time to time, we may change our Product or Service offerings, prices and/or these terms and in such event, we will give you reasonable notice of such changes. In particular, we will post changes to these terms on our website at www.shl.com and these shall be deemed to have been accepted by you and will be effective 30 days from the date of posting for all subsequent orders.

2.3 Offer & Acceptance

Your order for our Products or Services shall be deemed to be an offer by you to purchase our Products or Services subject to these terms. Your order shall only be deemed to be accepted by us when we issue a written acknowledgement of your order or (if earlier) when we deliver our Products or Services to you. If we provide you with a quotation for our Products or Services, it is valid for a period of 30 days only from its date unless we have stated otherwise or have withdrawn it.

2.4 Description

The description of our Products or Services is set out in our quotation or acknowledgement of order. Any other descriptions issued by us (including those contained in our brochures) are provided for the sole purpose of giving you an approximate idea of our Products or Services and do not form part of the Contract. If our Products or Services do not conform to those specified in the Contract, you must notify us

in writing within 15 days, failing which you will be deemed to have accepted them as being in accordance with the Contract and must pay the full agreed price.

2.5 Delivery Date

Any delivery date specified by us is intended to be an estimate only unless we state otherwise in writing. If no date is so specified, delivery will be made within a reasonable time.

2.6 Reasonable Assistance

You shall provide all reasonable assistance to us as is necessary for our delivery of our Products or Services to you. We shall have no liability to you where any failure or delay in the delivery of our Products or Services is the result of your act, omission or delay in providing such assistance.

3 Price and Payment

3.1 Price

Our price for our Products and Services is set out in our latest price list or (if applicable) our written proposal to you. Unless otherwise stated, our price is exclusive of any expenses or value added, sales taxes or other taxes which will be charged (and payable by you) at the applicable rate at the time of invoice.

3.2 Payment

Unless we otherwise agree in writing, payment for our Products and/or Services is due without deduction within 30 days after the date of our invoice. In the event of late or non payment, we may suspend the provision of our Products or Services and/or charge you default interest at a rate of 1.5% per month accruing on a daily basis from the due date for payment until the date on which payment is made and the costs in pursuing a debt recovery procedure.

4 Quality

4.1 Warranty

We take pride in the quality of our Products and Services. If you establish to our reasonable satisfaction that there is a defect in the materials or workmanship of our Products or that our Services have not been performed with reasonable care and skill, then we shall at our sole discretion and within a reasonable time:

(a) repair or make good such defect in such Products free of charge to you;

(b) replace such Products or re-perform such Services; or

(c) issue a credit note to you for the whole or part of the price of such Products or Services as appropriate ("Warranty").

Our liability under this Warranty shall in no event exceed the purchase price of such Products or Services and performance of any one of the above options shall constitute an entire discharge of our liability under this Warranty.

4.2 Conditions

Our Warranty does not apply unless you notify us in writing of the alleged defect within 7 days of the time when you discover or ought to have discovered the defect and in any event within 3 months of the delivery of our Products or 1 month of performance of Services. Our Warranty also does not apply:

(a) in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse or alteration of our Products without our approval;

(b) if the total price for our Products or Services has not been paid by the due date for payment;

(c) for any Products or Services provided in accordance with your specifications; or

(d) if you make any further use of our Products after giving notice in accordance with this clause.

4.3 Other warranties

The express warranties set out in the Contract are the only warranties given by us in lieu of all other warranties, conditions, undertakings, terms and obligations implied by statute, common law, trade usage, course of dealing or otherwise, all of which are excluded, to the fullest extent permitted by law, from the Contract. Also specifically excluded from and disclaimed by the Contract is any warranty concerning, and any remedy whatsoever arising from, any claim or allegation of disparate impact or disparate treatment of or by our Products or Services, upon any group falling within any protected classification as identified by any equal employment opportunity law.

5 Liability

5.1 Unlimited Liability

Nothing in these terms shall exclude or limit either party's liability for death or personal injury caused by its negligence or for fraud.

5.2 Consequential Loss

Neither party shall be liable for any of the following losses or damage (whether or not such losses or damage were foreseen, direct, indirect foreseeable, known or otherwise): (i) economic loss, (ii) loss of profits (whether actual or anticipated), (iii) loss of revenue, (iv) loss of anticipated savings, (v) loss of business, (vi) loss of opportunity (vii) loss of goodwill or for any other indirect, special or consequential loss or damage howsoever caused or any losses arising as a result of any third party bringing a claim in respect of any nature whatsoever. Some jurisdictions do not permit the exclusion or limitation of liability for consequential or incidental damages, and, as such, some portion of the above limitation may not apply. In such cases, the party's liability is limited to the greatest extent permitted by law.

5.3 Maximum Liability

Subject to these terms (including its schedules), our total aggregate liability arising out of or in connection with the performance or contemplated performance of the Contract (whether for tort (including negligence), breach of contract, breach of statutory duty or otherwise) shall in no event exceed 120% of the price paid or payable by you within the 12 month period immediately before the date of the event giving rise to your claim.

5.4 Guide

You acknowledge that our Products and/or the Services are intended to provide a guide only to you of the suitability and aptitude of potential and/or existing employees. Accordingly, you shall be solely responsible for all decisions taken or not taken in respect of such persons and shall indemnify us for any losses, damages, costs (including legal fees) and expenses incurred by or awarded against us which arise out of your decisions taken in respect of such persons. Where we have prepared reports for you, these reports represent opinions based on test results and must not be relied upon as statements of fact. In particular, whilst we have made efforts to ensure that

our Products avoid discrimination based on sex, race and age, no guarantee is given that this will be avoided in the interpretation of the tests.

6 Termination

6.1 Events

Either party may terminate the Contract by written notice with immediate effect if:

(a) the other becomes or is reasonably likely to become insolvent, enters into administration, bankruptcy or compromises any debts with creditors; or

(b) the other materially breaches the Contract and fails to remedy such breach, where it is capable of remedy, or persists in any breach of any of its obligations under the Contract after having been required in writing to remedy or desist from such breach within 30 days; or

(c) with 30 days prior written notice after the expiry of any agreed minimum term.

6.2 Consequences

Upon termination of the Contract for any reasons whatsoever:

(a) the relationship between the parties and any licences granted under the Contract shall cease;

(b) any provision which expressly or by implication is intended to come into or remain in force on or after the termination of the Contract shall continue in full force and effect;

(c) such termination shall be without prejudice to any rights or remedies of either party against the other which may have accrued up to the date of termination; and

(d) all sums owing pursuant to the Contract shall become due.

If you terminate the Contract in the absence of any default by us, you shall pay us the cancellation charges specified in the schedules or if none are specified, a reasonable allocation of our fees based on the percentage of work completed by us up to the date of termination.

7 Intellectual Property and Data Protection

7.1 IP ownership

Any pre-existing Intellectual Property rights in our Services, our Products or our online database will remain with the owning SHL company. Any Intellectual Property created by SHL in the course of the performance of our Services or the Contract or otherwise shall remain our sole property. You shall at all times remain the owner of any property (including Intellectual Property) which you provide to us. For the purposes of this Contract, "Intellectual Property" means any patent, copyright, design right, registered design, trade mark, service mark, trade name, domain name, know-how, database right, utility model, unregistered design or other industrial or intellectual property rights subsisting throughout the world, whether or not registered and all applications, renewals and extensions of the same.

7.2 Intellectual Property Warranties

(a) SHL warrants and represents to you, that SHL, or members of its group either own or have obtained the right to use, all Intellectual Property in all databases, designs, text, graphics, the selection and arrangement thereof used by SHL in the course of providing our Products or Services to you (collectively "SHL's Materials"), other than those licensed to SHL by you.

(b) Subject to clause 5.3, SHL will defend and indemnify you from and against any claim that any SHL Material infringes any third party Intellectual Property rights, provided that:

(i) You will notify SHL in writing (including e-mail or fax) immediately upon receiving notice of a claim, or upon reasonable suspicion of a claim being brought for

infringement of any third party's Intellectual Property; and

(ii) You will co-operate with SHL's reasonable requests for the provision of information or other assistance relevant to the claim; and

(iii) At our election, you will allow SHL to either obtain for you the right to continue using the SHL Materials, replace it, modify it so it becomes non-infringing, or refund to you the amount(s) paid to SHL for such materials; and

(iv) You will at our request, allow SHL to conduct such defence or settlement; and

(v) You will not settle or make any offer to settle the case nor make any admission of guilt or fault without first obtaining SHL's prior written approval.

(c) You warrant that you will not, by yourself or with any third party, do or omit to do any act that might in any way: (i) devalue or otherwise detrimentally affect the Intellectual Property rights in SHL Materials; (ii) adversely affect the reputation of any SHL company; (iii) cause confusion, deception or false associations with products or services that are not SHL Materials (including recruitment or other services) whether by preparing reports that are identical with, or confusingly similar to, any reports prepared by SHL, or otherwise.

7.3 Injunctive Relief

You agree that in the event you violate any of the provisions of this clause 7, SHL shall be entitled to seek immediate injunctive relief against you.

7.4 Use

Our Products and/or Services are provided for your sole benefit. Upon your purchase of our Products and/or Services, we grant you a non-transferable, non-exclusive licence to use our Products and/or Services only in the country where your business is registered and subject always to these terms. You agree that you will administer our Products and the materials relating to our Services, in compliance with all relevant laws, procedures or guidelines and that you will not copy, reproduce, modify or adapt, translate, disassemble or reverse engineer any of our Products or the materials relating to our Services unless we agree in writing otherwise.

7.5 Data Protection

Both parties shall comply with all applicable laws and regulations in relation to the collection, processing and storage of personal data relating to assessed individuals. For the avoidance of doubt, you are the data controller of such personal data and we are your data processor. As your data processor, we have technical and organisational measures in place against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data held or processed by us, appropriate to the harm that might result from such unauthorised or unlawful processing or loss, destruction or damage to personal data and the nature of the personal data and you acknowledge that we will undertake our services both within and outside the European Union. This includes processing your information in countries in which data protection laws are not as comprehensive as in the European Union. In these cases, we have taken appropriate steps to ensure the same level of protection for your information in such countries as there is in the European Union. If you ask, we will tell you what information we hold for you and provide it to you in accordance with applicable law. There may be a charge for this, as permitted by law. If you believe that any information that we hold for you is incorrect or incomplete, you should write without delay to us and we will promptly correct any such information.

8 General

8.1 Non-solicitation

The parties undertake that they will not without the other's prior written consent for the duration of the Contract plus twelve (12) months after termination:

(a) make any offer of employment or enter into any such discussions with any of the other party's employees (other than as a result of such individual responding to a bona fide recruitment campaign); or

(b) solicit or attempt to solicit services from any of the other party's employees on their own account;

failing which the breaching party shall on demand pay as liquidated damages to the other party, a sum equal to the gross salary of the relevant employee for the 12 month period prior to the said breach and the parties agree that these damages are a genuine pre-estimate of loss.

8.2 Relationship

Nothing in the Contract shall create, or be deemed to create a partnership or joint venture or relationship of employer and employee or principal and agent between the parties.

8.3 Force Majeure

Neither party shall have any liability to the other if the affected party does not fulfil its obligations to the other due to an event outside the affected party's reasonable control.

8.4 Confidentiality

The Contract, its content, the matters to which it relates and information exchanged pursuant to it are confidential between the parties. On expiry or termination of the Contract, each of us shall return to the other, the other's confidential information upon request. Notwithstanding the foregoing, an obligation of confidentiality will not exist in relation to any information which:

(a) is already in the public domain through no act or omission of the receiving party;

(b) is independently developed by the receiving party, which independent development can be evidenced in writing; or

(c) is required to be disclosed pursuant to a legal obligation.

8.5 Publicity

We will respect our obligation to keep your information confidential. However, you agree that we may undertake certain marketing activities as follows: (a) we may use your company name and logo in our customer lists (whether online or offline) and other marketing materials, (b) we may refer to you in a press release which announces your decision to use our Products and/or Services, (c) if we request, you will participate in the joint development of a case study describing your use of our Products and Services, and/or other joint press and marketing activities with us, provided at all times that we will not state without your permission that you approve, recommend or certify our Products and/or Services and we shall stop any or all of the above activities if you request us to do so.

8.6 Notice

With the exception of notices pursuant to clause 2.2 any notice given under the Contract shall be in writing and delivered by registered post to the registered address of the party, or such other address as is notified to the other party.

For notices to SHL, these should be sent to your regular business contact and copied to:

Company Secretary
The Pavilion
1 Atwell Place
Thames Ditton
KT7 ONE
United Kingdom
Fax: +44 (0)208 335 7000

8.7 Severability/Waiver

If any provision of the Contract is held to be invalid under any enactment or rule of law, that invalidity will not affect the rest of the Contract which will remain valid and enforceable. Any waiver of any breach of the Contract shall be in writing, and shall not prevent the subsequent enforcement of that provision nor be deemed to be a waiver of any subsequent breach of that or any other provision.

8.8 Assignment

Neither party shall assign or otherwise transfer its rights or responsibilities under the Contract to any other party without the other party's prior written consent. We may, however, sub-contract our duties to our group companies, approved distributors, partners, associates or other qualified subcontractors but we will remain at all times responsible to you for their performance. A third party shall not have the right to enforce any term of the Contract without our prior written agreement which agreement must refer to this clause.

8.9 Law/Jurisdiction

The Contract and any dispute arising out of it (whether contractual or non-contractual) shall be governed by English law and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

Schedule A

Additional Terms applicable to sales of SHL online Products and Services

A1 Service

We may provide to you with an online system for your employee recruitment or developmental needs. This service may include establishing links with your website, configuring our online system for your purposes and delivering services to you through our online system.

A2 Access/Security

You shall nominate employees who will have access to our online system and are responsible for their use or misuse of our online system. You shall instruct your employees to keep confidential any user name and password assigned to them. You must notify us of any actual or anticipated unauthorised access to or use of our online system as soon as you become aware of this.

A3 Logo/System statements

Where you require us to provide you with a website branded with your logo, you agree that we may use your logo for this purpose for the duration of the Contract. You shall have the sole right to determine the scope of certain statements to be displayed to users of our online system, so long as such statements do not adversely affect us. Such statements may include data protection notices, trademark notices, content disclaimer and your contact details.

A4 Upgrades and Maintenance

We may from time to time conduct system upgrades and maintenance to our online system. Upgrades may be provided at no cost to you. However, if any

upgrade costs are payable, we will obtain your prior consent. We will provide you with reasonable notice of the implementation of these upgrades unless immediate action is required, for example, in the event of a security breach. We will also conduct routine maintenance on our online systems, and they may be inaccessible during such maintenance. We will try to provide prior notice of such maintenance, and will restore access as soon as practicable.

A5 Cancellation

We provide our online system to you for a fixed minimum term of 12 months from the date of the Contract. If you wish to terminate the Contract (other than for our default), you can only do so after this period.

A6 Liability

You acknowledge that performance and access to our online system are dependant on third parties, such as internet service providers, and the level of use of our online system by yourself and other clients of SHL. Accordingly, you agree that SHL shall have no liability to you to the extent any loss you may suffer results directly or indirectly from:

- (a) Failures of performance on the part of SHL's internet service provider; or
- (b) Excess levels of use of our online system by our other clients or by yourself exceeding your pre-agreed usage limits; or
- (c) Reasons related to the provision of system upgrades or maintenance; or
- (d) Any security breach of our system unless such breach is shown to be the result of our negligence; or
- (e) Any other reasons provided that our online system was not entirely inaccessible in any one country due exclusively to SHL's software or hardware for any period exceeding ten (10) consecutive hours or an aggregate of more than twenty-four (24) hours in any calendar month.

Schedule B

Additional Terms applicable to sales of SHL Products (paper & pencil, UCF and/or CD ROMs)

B1 Delivery

We shall not be liable for any non-delivery of Products (even if caused by our negligence) unless you give us written notice of the non-delivery within 7 days of the date when our Products would in the ordinary course of events have been received. Our total liability to you in such circumstances shall be limited to replacing our Products within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Products.

B2 Exchange

If you would like to exchange a Product which is in good order with another, you must let us know your request within 30 days of your receipt of the Product. If we decide to accept your request, we may charge a reasonable administration fee to cover our expenses.

B3 Leased materials

In certain territories, we lease our Products to clients on an annual basis in exchange for a fee. You may cancel your lease by giving us at least 30 days written notice before its expiry, failing which the annual renewal fee will become payable. Refunds will not be made on our leased Products returned part way through a lease period. Leased Products remain our property at all times and if you have lost or damaged them, additional charges are payable.

B4 UCF

You may use our Universal Competency Framework (UCF) to (i) profile a job with our UCF cards and other tools that SHL makes available from time to time and to (ii) recruit, develop or conduct other selections using our UCF tools. You may not change our UCF in any way or use our UCF to map competencies to non-SHL Products, unless we agree otherwise in writing. Research reveals that outputs from using non-SHL Products with the UCF are likely to be inaccurate. SHL accepts no responsibility and disclaims all liability for the consequence or loss which may arise as a result of using the UCF with non-SHL Products.

Schedule C

Additional Terms applicable to certain product sales in UK, Europe and South Africa which require user qualification licences

C1 Additional definitions

In this schedule, the following words have the following meanings:

"Qualification Licence" means an annual licence to order our Products:

- (a) which a Registered User may obtain for a fee; or
- (b) which an organisation may obtain for a fee for its employees who are Registered Users within the specific territory as stated in the licence.

"Registered User" means a person who has successfully completed our appropriate training course, obtained a valid Qualification Licence.

"Test Administrator" means a person who has successfully completed the appropriate training course to administer our Products under the supervision of a Registered User employed in the same organisation.

C2 Term

Qualification Licences are renewable annually. You may cancel your Qualification Licence by giving us at least 30 days written notice before its expiry, failing which the annual renewal fee will become payable.

C3 Orders

All written orders must state the name and registration number of the Registered User and be signed by the Registered User. Registered Users should notify us of any change of employer or address as soon as is practicable. If no Registered User remains in your organisation, Products must be returned to us.

C4 Administration

You will ensure that all parties who administer our Products and provide an interpretation of the results following the use of our Products must be a Registered User and/or a Test Administrator under the supervision of a Registered User, unless we have agreed otherwise. A maximum of 3 Test Administrators may operate under the supervision of 1 Registered User.

Schedule D

Additional Terms applicable where SHL provides Consultancy Services

D1 Consultant

We cannot guarantee that a particular SHL employee ("Consultant") will carry out a consultancy project as unforeseeable events (eg illness) may occur.

D2 Charges

Our Consultant charges are based on the time spent on a project, and we define a Consultant Day as being a maximum of 8 hours during normal working hours (excluding travelling time). If evening, weekend, public holiday work or overseas travel is involved,

higher rates may apply. We will bill you monthly or at pre-agreed billing points. Travel, subsistence, courier and other expenses will be charged to you at cost. Car travel will be charged at our prevailing rate (available on request).

D3 Cancellation/Postponement

When we agree to undertake a project for you, we make all necessary arrangements so that the appropriate personnel and resources are available on the agreed dates. If you subsequently wish to cancel or postpone the agreed project dates, we will discuss whether substitute work to replace the work that has been cancelled or postponed can be carried out on the days arranged for the original work. If it is not possible, our charges, unless otherwise agreed in writing by us, will be as follows:

Within 5 working days of start date: 100% of our quoted fee.

Within 10 working days of start date: 50% of our quoted fee.

Within 15 working days of start date: 25% of our quoted fee.

In the absence of any default by us of this Contract giving rise to a right of termination, if you terminate the Contract at any point after commencement of the work, you will be liable for 100% of our quoted fee.

Schedule E

Additional Terms applicable where SHL provides Training Services

E1 In-House Training Courses

We may carry out or design an in-house training course for you. Fees for these courses exclude any third party training materials which will be supplied at a price we will agree with you. Any Products used during the course shall be supplied in accordance with these terms.

E2 Public Training Courses

We may alter our public training course syllabus at any time before the start of the course.

E3 Substitutions

You may request substitutions of delegates at any time. If we accept your request, we may require that your substitutes successfully complete any pre-course training requirements before attending the course.

E4 Award

The award of any certificate, diploma or other qualification is dependent upon your delegate's successful completion of the training course and/or the passing of a test.

E5 Charges

Notwithstanding clause 3 of these terms, you shall pay our invoices (a) for public training courses within 21 days from the date of our invoice or by the start date of the course, whichever is the earliest (b) for in-house training courses, within 15 days from the date of our invoice or within 21 days of the start date of the course. On completion of an in-house training course, you shall pay our invoice for travel and subsistence expenses for our trainers.

E6 Cancellation

We may cancel a training course at our discretion without liability to you by giving you at least 7 days prior written notice. If you wish to cancel or postpone a training course, you must give us written notice at least 21 days before the start date of the course. On receipt of your cancellation, we shall credit your

account with a sum equal to the fees paid by you in connection with the relevant training course. If you do not order any substitute training services from us for a maximum period of 12 months from the date we receive the written notice, the fee paid by you will not be refunded under any circumstances. If you cancel a training course by giving us less than 21 days written notice, our full course fees are payable.

E7 Liability

You are solely responsible for the conduct of your delegates. Property brought to the training venue is entirely at your risk and we exclude all liability for theft or loss of such property from the training venue, howsoever caused.

Schedule F

Additional Terms applicable where customer is a Value Added Service Provider ("VASP")

F1 Additional definitions

In this schedule, the following words have the following meanings:

"Territory" means the country in which you are resident for the purpose of carrying out business under this Contract, unless otherwise agreed in writing between the parties;

"VASP" means a person, firm or company, whose business is to supply human resources products and or services (including candidate assessment services) who is appointed by SHL or subject to SHL approval.

F2 Appointment

(a) SHL hereby grants to VASP a limited, personal, non-transferable, and non-exclusive right to utilise and incorporate or consume SHL Products and Services (including our online services) as an integral part of the consulting service provided by VASP to its customers provided those customers are resident in the Territory.

(b) Other than as provided in clauses 2.1 of this section, VASP shall not have the right to resell or resupply SHL Products or Services.

F3 Third Party Claims/Limitation of Liability

(a) SHL shall have no liability for any claim resulting from the combination of an SHL Product with other products which were neither supplied nor combined with the SHL Product by SHL.

(b) VASP shall indemnify and hold SHL harmless from and against all claims, liabilities, damages and expenses (including court costs and attorney fees) arising out of or in any manner related to the operation of VASP's business.

F4 Use

VASP's may only use our Products and Services (including our online services) for the sole purpose of enabling your clients to recruit and manage their internal human resources, provided always that those clients are resident in the Territory where your business is registered and possess any training or licence qualifications as may be required by us for their intended use of our Products and/or Services.

F5 Product sales

For the avoidance of doubt, Schedule B of these terms shall apply to any sale of SHL Products by SHL to VASPs.

Please refer to www.shl.com for the latest version of our Terms of Business.